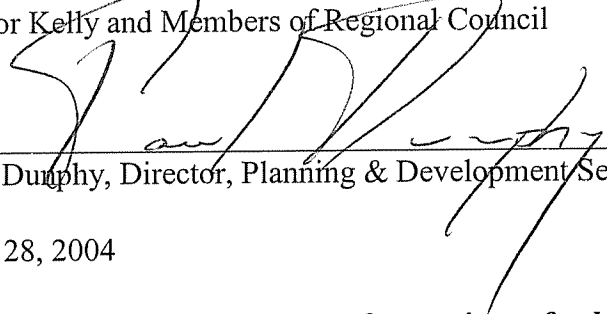


Halifax Regional Council
July 6, 2004

TO: Mayor Kelly and Members of Regional Council

SUBMITTED BY: 
Paul Dunphy, Director, Planning & Development Services

DATE: June 28, 2004

SUBJECT: **Request to review the process of extensions of a development agreement as a substantial amendment.**

INFORMATION REPORT

ORIGIN

A request by Regional Council on May 1, 2001 that Planning & Development Services provide a response to the proposal from the Regional Heritage Advisory Committee regarding Extension of Development Agreements.

BACKGROUND

On May 1st, 2001 the Regional Heritage Advisory Committee recommended to Regional Council suggesting that any extension of a development agreement be reopened to the public hearing process. This recommendation was made after the Brenhold Development Agreement (affecting the Garden Crest Apartment Building, a municipal registered heritage property) was extended without a public hearing.

DISCUSSION

Development agreements contain an expiry date so that Council has an opportunity to conclude projects which have been approved but not constructed. In cases where the development has not proceeded within the allotted time, Council may grant an extension, at the request of the developer, if it is felt the development is still appropriate. The Municipal Government Act does not require Council to hold a public hearing before deciding to either approve or refuse a request to extend a development agreement. Council attempts to exercise reasonable judgement when making this decision.

Currently applications to extend a development agreement are reviewed against the criteria and context under which the development agreement was initially approved. Specifically, staff determine if the Municipal Planning Strategy policies, land use bylaw regulations and heritage legislation etc which applied when the project was approved are still in effect. In addition, staff determine if there have been any changes in the surrounding neighbourhood or community which would change the impact of the development. If no change in policy or circumstance has taken place, then the outcome of a new public hearing process is likely to be identical.

It should be noted that there is no statutory requirement for Council to extend the deadline in a development agreement. If Council chooses not to grant an extension, the development agreement is nullified. The developer then has the option of applying for a new agreement and fulfilling the requirements for a new round of public consultation/notification, including a public hearing.

HRM's current practice for dealing with development agreement extensions allows Council to apply judgment in deciding whether or not a new public hearing is justified. Obliging Council to require all development agreement extensions to go to a new public hearing removes Council's ability to exercise reasonable judgement.

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES\BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Unless directed otherwise staff will continue to prepare draft development agreements in a manner which permits councils to consider time extensions without a public hearing.
2. Councils could add a new clause to those development agreements which they believe should require a future public hearing before extending the time limit. This course of action is not recommended since councils in effect already have the power to decide on an individual basis whether or not to have a new public hearing when the request for an extension is made.
3. Councils could require the addition of a new clause to all development agreements, requiring all development agreements to go to public hearing before an extension can be granted. This course of action is not recommended since in the majority of cases this would not add any value to the decision making process if there has not been any change in policy or circumstance.

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Paul Dunphy, Director of Planning & Development Services